THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22371 OF 2005

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Dated: 30TH NOVEMBER, 2005.

Between:

Grandhi Narayana Setty … Petitioner

And

1. The District Collector, Nellore,
   Nellore District.
2. The Prohibition & Excise Superintendent,
   Nellore, Nellore Disrict. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22371 OF 2005

ORDER :

The petitioner herein claims to be the owner of premises bearing No.5-363 of Chinthareddypalemdonka, Stonehousepet, Nellore. It is stated that the shop Nos.4A & 4B of the said premises were leased out to one Boligala Penchalaiah on 30-5-2001 for the purpose of running Bar & Restaurant. It is not in dispute that the lease period expired and even the licence granted by the Prohibition & Excise Superintendent, Nellore in favour of the said Penchalaiah expired on 30-9-2004. However, it appears that the said Penchalaiah has been continuing in possession of shop Nos.4A & 4B illegally and he also unauthorisedly let out the said premises to one S. Madhusudhana Reddy who applied for licence to run a retail shop under the name and style of M/s. Swathi Wines. On the basis of the same, the licence was granted in favour of S. Madhusudhana Reddy. Having come to know of the said fact, the petitioner got issued a legal notice dated 25-7-2005 to the second respondent – Prohibition & Excise Superintendent. In pursuance thereof, the second respondent passed the order dated 1-8-2005 calling upon the licensee Madhusudhana Reddy to shift the retail shop from the shop Nos.4A and 4B by paying the shifting fee of Rs.10,000/-. It was also stated that if necessary steps are not taken, appropriate action will be initiated in accordance with law.

Now, this writ petition is filed alleging that the said order dated 1-8-2005 has not been implemented and accordingly seeking a Writ of Mandamus declaring the action of the respondents in not implementing the directions in the proceedings dated 1-8-2005 as arbitrary and illegal, and consequently direct the respondents to implement the said order dated 1-8-2005.

On behalf of the respondents, the Station House Officer, Prohibition & Excise Station, Nellore filed a counter-affidavit in which it is stated that questioning the order dated 1-8-2005 the licensee Madhusudhana Reddy filed O.S.No.886 of 2005 on the file of III Addl. Junior Civil Judge, Nellore seeking a decree for permanent injunction. The said suit is still pending. However, no orders of temporary injunction though prayed for by the said licensee have been passed. It is further stated that the licensee Madhusudhana Reddy remitted Rs.10,000/- towards shifting vide Challan No.430, dated 5-11-2005. He also submitted a representation dated 6-11-2005 for shifting of the retail shop from the existing premises i.e., Shop Nos.4A and 4B belonging to the writ petitioner to another premises in the same ward and same area. The said representation has been forwarded to the Commissioner of

Prohibition & Excise, Hyderabad who is the competent authority for granting permission for shifting the premises under Rule 29 (3) of A.P. Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules, 2005.

Having regard to the averments in the counter-affidavit, it is clear that the respondents are taking further steps in pursuance of the order dated 1-8-2005. Hence, it is not necessary to make any further enquiry in this writ petition.

Accordingly, the Writ Petition is disposed of with a direction to the Commissioner of Prohibition & Excise, Hyderabad to pass appropriate orders on the representation dated 6-11-2005 made by the leaseholder Madhusudhana Reddy for shifting of his retail shop from the shop Nos.4A and 4B and to pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of this order. Thereafter, necessary steps shall be taken by the 2nd respondent expeditiously.

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30th November, 2005.

Gbs

N.B:-

1.CC. in one Week.

2. Registry is directed to communicate

a copy of this order to the Commissioner of

Prohibition & Excise, Hyderabad.

(B/o)

gbs